

LILLIAN C. FERREIRA

OCTOBER 25, 1943.—Ordered to be printed

Mr. WHERRY, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 1435]

The Committee on Claims, to whom was referred the bill (H. R. 1435) for the relief of Lillian C. Ferreira, having considered the same report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 658, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 658, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 1435) for the relief of Lillian C. Ferreira, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 5, after word "Ferreira," insert words "of Fall River, Massachusetts."

Page 1, line 6, strike out figure "\$3,000" and insert in lieu thereof figure "\$1,500".

Page 1, line 6, after the word "settlement" insert the words "of all claims against the United States".

Page 1, line 9, after "1939," add words "at Fall River, Massachusetts".

At end of bill add: "Provided, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

The purpose of the proposed legislation is to pay to Lillian C. Ferreira, of Fall River, Mass., the sum of \$1,500, in full settlement of all claims against the United States for injuries sustained by her late husband, John S. Ferreira, when he was knocked down and badly injured by a United States post-office truck on October 16, 1939, at Fall River, Mass.

STATEMENT OF FACTS

On October 16, 1939, about 3:30 p. m., John S. Ferreira was leaving his yard at 35 Stewart Street, in Fall River, Mass., and a United States post-office or mail truck was parked in front of his house. The driver of the truck jumped into the driver's seat and started to back up just as Mr. Ferreira stepped from the curb to cross the street in the rear of the truck. The truck struck Mr. Ferreira, knocking him down, but it appears that the driver continued to back his truck into North Main Street and after pulling into North Main Street, continued on his way without stopping.

Mr. Ferreira received injuries described as dislocation of his right acromioclavicular joint and a deep abrasion of his right elbow. He was hospitalized on the date of the accident, but was discharged the following day, however; it appears that he was thereafter under treatment of physicians until his death on February 25, 1940. Dr. Arthur LaSalle, of Somerset, Mass., who treated him shortly before his death, states that he died of hypertensive heart disease and its complications, and that: "It is my firm belief that this accident aggravated his poor physical condition and hastened his death."

While the record does not disclose his age, it reflects that at the time of his death Mr. Ferreira was considered an old man (his wife was 54 years of age) and that he was in poor health at the time of the accident, but that he steadily declined from the time of his accident until his death.

The Postmaster General states that his information is meager and that he makes no recommendations. It appears to your committee that while Mr. Ferreira was in poor health at the time of the accident, and that his death may not have resulted from his injuries, nevertheless he was badly injured and that the driver of the mail truck was negligent in starting to back the truck without ascertaining that Mr. Ferreira was in back of the same. He could or should have seen Mr. Ferreira had he looked to see if anyone was in back of the truck before he started backing the same.

The bill was introduced for \$3,000, but your committee have reduced the amount proposed to be paid to \$1,500, which they consider a fair and reasonable settlement under the circumstances.

Your committee, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the Postmaster General, together with other pertinent evidence, all of which is made a part of this report.

POST OFFICE DEPARTMENT,
Washington, D. C., November 30, 1942.

Hon. DAN R. McGEHEE,

Chairman, Committee on Claims, House of Representatives.

MY DEAR MR. McGEHEE: The receipt is acknowledged of your letter of September 6, 1942, requesting a report on H. R. 7278 for the relief of Lillian C. Ferreira, of Fall River, Mass., in the amount of \$3,000, on account of personal injuries sustained by her late husband, John S. Ferreira, in an accident involving a mail truck which occurred on October 16, 1939.

Investigation of the accident disclosed that the mail truck was being backed out of a dead-end street and collided with Mr. Ferreira, an old man suffering from dropsy, who was crossing the street and, at the time the mail truck started to back, was immediately behind the truck. Mr. Ferreira filed a claim under the provisions of 5 United States Code 392, as amended, and was awarded the sum of \$155, the full amount claimed by him.

These facts are reported to your committee without a recommendation as to the action which should be taken on the bill. It is believed that the question whether the widow should receive any additional compensation for the injuries sustained by her husband, whose death does not appear to have been caused by the accident, is one determinable as a matter of legislative policy.

I regret my inability to furnish you with the files of this case for the reason that they were transmitted to the Postal Accounts Division, General Accounting Office, at the time this Department recommended the settlement of the claim. Presumably they may be obtained by your committee direct from the General Accounting Office.

It has been ascertained from the Bureau of the Budget that in the absence of evidence as to the continuing effect of the injuries sustained by the claimant's husband in the accident on October 16, 1939, and as to whether the husband's

death resulted from such injuries, the enactment of the proposed legislation would not be in accord with the program of the President.

Very truly yours,

FRANK WALKER, *Postmaster General.*

NOVEMBER 21, 1942.

The honorable the POSTMASTER GENERAL,
Washington, D. C.

MY DEAR MR. POSTMASTER GENERAL: This will acknowledge the receipt of your letter of September 16, 1942, transmitting the original and one copy of a proposed report to the chairman of the House Committee on Claims, relative to H. R. 7278, a bill for the relief of Lillian C. Ferreira, and requesting advice as to the relationship of the proposed legislation to the program of the President.

In the absence of evidence as to the continuing effect of the injuries sustained by the claimant's husband in the accident on October 16, 1939, and as to whether the husband's death resulted from such injuries, you are advised that the enactment of the proposed legislation would not be in accord with the program of the President.

The original of your proposed report is returned herewith.

Very truly yours,

F. J. BAILEY,
Assistant Director, Legislative Reference.

AFFIDAVIT OF EMILY WHALEN

I, Emily Whalen, of 32 Stewart Street, Fall River, Mass., was just leaving the Westell grocery store on Stewart Street, on October 16, 1939, at approximately 3:30 p. m., when I saw John Ferreira leaving his yard at 35 Stewart Street and a United States mail truck parked in front of this address.

The driver jumped into the driver's seat of the truck and started to back up just as Mr. Ferreira stepped from the curb to cross the street in the rear of the truck. After hitting Mr. Ferreira and knocking him to the ground, the driver continued to back the truck into North Main Street and continued on his way without stopping.

I, Emily Whalen, attest that this is a true statement.

EMILY WHALEN.

The above-named Emily Whalen appeared before me and took oath that the above statement is a true statement.

September 10, 1942, Fall River, Mass.

[SEAL]

LUCY SHAUGHNESSY, *Notary Public.*

My commission expires October 5, 1945.

AFFIDAVIT OF DR. ARTHUR LA SALLE

COMMONWEALTH OF MASSACHUSETTS,
Bristol County:

Personally appeared before me, the undersigned authority, Dr. A. La Salle, who, being first duly sworn, makes the following statement on oath:

I am a practicing physician and surgeon of Somerset, Mass., and was such on and prior to October 16, 1939. I attended John S. Ferreira prior to his death, which occurred on February 25, 1940. He died of hypertensive heart disease and its complications.

On October 16, 1939, Mr. Ferreira was struck and badly injured by a United States mail truck in Fall River, Mass. He was hospitalized and X-rays were taken. The diagnosis was a "complete fracture of the right acromioclavicular joint, abrasions about the right elbow and hypertension." This joint is a part of the chest or thoracic cavity, in which cavity is enclosed the heart and great vessels.

It is my opinion and firm belief that the injuries sustained by Mr. Ferreira as a result of his being struck by said mail truck aggravated his poor physical condition and proximately caused and hastened his death.

ARTHUR LA SALLE, M. D.

Sworn to and subscribed before me this 13th day of April 1943.

[SEAL]

WILLIAM C. CROSSLEY, *Notary Public.*

My commission expires July 29, 1943.

AFFIDAVIT OF LILLIAN C. FERREIRA

COMMONWEALTH OF MASSACHUSETTS,
Bristol County:

I, Lillian C. Ferreira, being first duly sworn, make oath to the following state of facts:

I am 54 years of age, and am the widow of John S. Ferreira. There were born to our union the following children who are now living: John Ferreira, Fall River; Mary Ferreira Costa, Fall River, and William Ferreira, Fall River.

My late husband was injured by being struck by a United States post-office vehicle on October 16, 1939. Prior to his injury his health was not very good and he was able to do the following work—cooking, housework, and chores; and he earned approximately \$— per month. The injuries received by him were these: He was knocked unconscious but was afterward able to get up and walk about. He was bruised over his right elbow and his right arm was depressed. His right acromioclavicular joint was dislocated and the dislocation was reduced under a local anesthetic by Dr. Gilbert T. Hyatt. When the dislocated joint was set, or put into position, it was tightly strapped to hold it in place.

My husband's health from and after his injury on October 16, 1939, steadily declined until he died on February 25, 1940.

I attach hereto the hospital bill of the Truesdale Hospital, Inc., for \$16, which is the amount incurred by my late husband for treatment at that institution.

LILLIAN C. (her X mark) FERREIRA.

Witness to mark:

WILLIAM C. CROSSLEY.

Sworn to and subscribed before me this 1st day of June 1943.

[SEAL]

WILLIAM C. CROSSLEY, Notary Public.

My commission expires July 29, 1943.

AFFIDAVIT OF DELIGHT S. JONES

COMMONWEALTH OF MASSACHUSETTS,
County of Bristol:

I, Delight S. Jones, being first duly sworn, make oath that the facts hereinafter stated by me are true to the best of my knowledge, information, and belief. The hospital record of John Ferreira, of 35 Stewart Street, Fall River, Mass., who was admitted to the Truesdale Hospital at Fall River, Mass., on October 16, 1939, is as follows:

ABSTRACT OF HOSPITAL RECORD, TRUESDALE HOSPITAL, FALL RIVER, MASS.: NAME:
JOHN FERREIRA, 35 STEWART STREET, FALL RIVER, MASS. AGE: 50

Date of admission: October 16, 1939.

Date of discharge: October 17, 1939.

History: The patient was struck by a mail truck, according to son, shortly before admission. Was not knocked unconscious. Able to get up and walk about. The patient has been "ill" for several months.

Unable to get history. The patient is deaf and does not speak English well.

Past history: History of "illness" of several months' duration.

Physical examination: General appearance of poor health; appears nephritic or myxedematous; skin: dry, scaly, puffy, poor; mucous membranes: pale; eyes: puffy; movements slow, conjunctivae: puffy, pupils regular and react to light and distance. Throat: hoarse speech; teeth: edentulous; thyroid: not palpable; lungs: clear and resonant; heart: no enlargement, regular, rate 70, fair quality, blood pressure 190/94, abdomen: full, soft, no masses, spasm, or tenderness; liver and spleen not palpated; extremities: abrasion over right elbow; depression of right arm; tenderness over distal end of right clavicle.

Laboratory examinations: Urine, October 17, 1942, acid reaction, specific gravity 1.015, albumin negative, sugar negative, acetone negative, R B C 0-1, rare pus cell. Blood, October 17, 1942, sugar 121 mgm., nonprotein nitrogen 27 mgm., Wassermann negative.

Hospital course: October 16, 1939—Reduction of complete dislocation of right acromioclavicular joint under local anesthesia, Dr. Hyatt. Elbow wound cleaned and dressed. Tight strapping applied over clavicle to maintain reduction. October 17, 1939—Discharged to Dr. Hyatt.

Diagnosis: Complete dislocation of right acromioclavicular joint; deep abrasion of right elbow, hypertension.

DELIGHT S. JONES.

Sworn to and subscribed before me this 18th day of June 1943.

WILLIAM K. TURNER, *Notary Public*.

My commission expires April 14, 1950.

No. 46012

FALL RIVER, MASS., November 3, 1939.

John Ferreira, 35 Stewart Street, to The Truesdale Hospital, Inc., debtor:

From Oct. 16 to 17, 1 day, at \$4.....	\$4
Use of operating room.....	5
Laboratory examinations.....	2
X-ray examination (Oct. 28).....	5
Total.....	16

AFFIDAVIT OF GILBERT T. HYATT

COMMONWEALTH OF MASSACHUSETTS,

County of Bristol:

Gilbert T. Hyatt, being first duly sworn, makes oath to the following statement of facts:

I am a practicing physician and surgeon, of Fall River, Mass., and was such on and prior to October 1939. I attended and treated John S. Ferreira, of 35 Stewart Street, Fall River, Mass., on October 16, 1939. The history of his case was that he had been struck by a United States post-office truck on that date, and I found from an examination that he had sustained the following injuries: His right acromioclavicular joint was dislocated and he had a deep abrasion in his right elbow. Under an anesthesia I reduced the dislocation of the right acromioclavicular joint, with firm adhesive strapping over felt pad applied, and put his right arm in a sling. On October 19, 1939, he visited my office. On October 24, 1939, I repeated manipulation of the dislocated joint under an anesthesia and applied a new apparatus. On October 28, 1939, he visited my office for observation and treatment, and on November 4, 1939, the apparatus to his dislocated acromioclavicular joint was reapplied. On December 22, 1939, he again visited my office for treatment and observation.

All of these treatments were administered to this patient for injuries received in said accident, and my charges are fair and in accordance with regular charges for such treatments. No part of my bill has been paid to me, and I attach same to this affidavit and mark it "Exhibit A."

GILBERT T. HYATT.

Sworn to and subscribed before me this 21st day of April 1943.

[SEAL]

HOUGHTON B. PRIEST,
Notary Public

My commission expires February 25, 1949.

FINAL BILL

FALL RIVER, MASS., December 23, 1939.

Re: Accident involving United States mail truck on October 16, 1939.

Mr. JOHN FERREIRA,
35 Stewart Street, Fall River, Mass.:

Oct. 16, 1939. Operation, under anesthesia, dislocation of right acromioclavicular joint reduced, with firm adhesive strapping over felt pad applied, and right arm put in sling.....	\$50
Oct. 19, 1939. Office visit.....	3
Oct. 24, 1939. Repeated manipulation under anesthesia, and application of new apparatus.....	50
Oct. 28, 1939. Office visit.....	3
Nov. 4, 1939. Apparatus reapplied.....	10
Dec. 22, 1939. Office visit.....	3
Total.....	119

All treatment covered herein is for injuries received in the alleged accident involving a mail truck. The charges are fair and in accordance with regular charges for such treatment. No payment has been received.

GILBERT T. HYATT, M. D.

SOMERSET, MASS., *February 12, 1942.*

Hon. WILLIAM C. CROSSLEY,
Fall River, Mass.

DEAR SIR: This communication is to certify that I attended one John S. Ferreira, of 35 Stewart Street, Fall River, just prior to his death on February 25, 1940. He died of hypertensive heart disease and its complications.

On October 16, 1939, Mr. Ferreira was struck and badly injured by a United States mail truck. He was hospitalized and X-rays were taken. The diagnosis was a "complete fracture of the right acromioclavicular joint, abrasions about the right elbow, and hypertension." This joint is a part of the chest or thoracic cavity, in which cavity is enclosed the heart and great vessels.

It is my opinion and firm belief that this accident aggravated his poor physical condition and hastened his death.

Very truly yours,

A. LA SALLE, M. D

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